Page 1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD

DEPOSITION OF: KEVIN ALMEROTH

TAKEN ON: AUGUST 24, 2017

REPORTED BY:

PATRICIA L. HUBBARD, CSR #3400



| | Page 2 | | Page 4 |
|---|---|--|--|
| 1 | 1490 1 | 1 | INDEX |
| 2 | DEPOSITION OF KEVIN ALMEROTH, | 2 | INDEX |
| 3 | taken on behalf of the Patent | 3 | WITNESS PAGE |
| 4 | Owner, at 333 South Hope Street, | 4 5 | KEVIN ALMEROTH (By Mr. Henkelmann) 6, 123 |
| 5 | 43rd Floor, Los Angeles, | 6 | (By Mr. Henkelmann) 6, 123 (By Mr. Quist) 118 |
| 6 | California, commencing at | 7 | (by Mr. Quist) |
| 7 | 8:42 A.M. on August 24, 2017, | 8 | |
| 8 | before PATRICIA L. HUBBARD, | 9 | EXHIBITS |
| 9 | CSR #3400, a Certified Shorthand | 10 | PAGE ALMEROTH DESCRIPTION DEFERENCES |
| 10 | Reporter in and for the State of | 11 | ALMEROTH DESCRIPTION REFERENCED |
| 11 12 | California. | ** | Exhibit 1 Declaration of Kevin Almeroth 7 |
| 13 | APPEARANCES OF COUNSEL: | 12 | in Support of Petition for |
| 14 | ALL EARANCES OF COUNSEL. | l | Inter Partes Review of |
| 11 | For the Petitioner: | 13 | U.S. Patent No. 6,895,449: |
| 15 | To the Tellioner. | 14 | Claims 1, 16 and 17 |
| | SHEPPARD MULLIN RICHTER & HAMPTON LLP | ** | Exhibit 2 Declaration of Kevin Almeroth 8 |
| 16 | BY: TREVOR J. QUIST, ESQ. | 15 | in Support of Petition for |
| | 12275 El Camino Real | | Inter Partes Review of |
| 17 | Suite 200 | 16 | U.S. Patent No. 6,470,399: |
| | San Diego, California 92130 | 17 | Claims 1, 3, 6, 11, 14 and 15 |
| 18 | 858.720.8900 | 17 | Exhibit 3 United States Patent 9 |
| | -AND- | 18 | Number 6.895.449 |
| 19 | SHEPPARD MULLIN RICHTER & HAMPTON LLP | 19 | Exhibit 4 United States Patent 9 |
| | BY: SCOTT R. MILLER, ESQ. | | Number 6,470,399 |
| 20 | 333 South Hope Street | 20 | E175 H 5 10 4 D 4 4 C |
| | 43rd Floor | 21 | Exhibit 5 United States Patent 9 Number 5.758.081 |
| 21 | Los Angeles, California 90071 | 22 | Exhibit 6 American National Standard 121 |
| | 213.620.1780 | "" | For Information Systems - |
| 22 | smiller@sheppardmullin.com | 23 | Small Computer System |
| 23 | | | Interface-2 |
| 24 25 | | 24 | (Only cover page attached) |
| 25 | | 25 | |
| | Page 3 | | Page 5 |
| 1 | ADDEAD ANCES OF COUNSEL. (Continued) | , | INDEX (Continued) |
| 1 2 | APPEARANCES OF COUNSEL: (Continued) | 1 | INDEX (Continued) |
| | For the Patent Owner: | 2 | |
| 3 | Tof the Latent Owner. | 3 | INFORMATION REQUESTED: |
| | FITCH, EVEN, TABIN & FLANNERY LLP | 4 | (NONE) |
| 4 | BY: PAUL B. HENKELMANN, ESQ. | 5 | (NONE) |
| | 120 South LaSalle Street | | |
| 5 | Suite 1600 | 6 | WITNESS INSTRUCTED NOT TO ANSWER: |
| | China - Illinois 60602 | | |
| | Chicago, Illinois 60603 | 7 | (NONE) |
| 6 | 312.577.7000 | | (NONE) |
| | | 8 | (NONE) |
| 7 | 312.577.7000 phenkelmann@fitcheven.com | 8 9 | (NONE) |
| 7 8 | 312.577.7000 phenkelmann@fitcheven.com For the Samsung Electronics Parties: | 8 | (NONE) |
| 7 | 312.577.7000 phenkelmann@fitcheven.com For the Samsung Electronics Parties: DRINKER BIDDLE & REATH LLP | 8 9 | (NONE) |
| 7 8 9 | 312.577.7000 phenkelmann@fitcheven.com For the Samsung Electronics Parties: DRINKER BIDDLE & REATH LLP BY: NICK COLIC, ESQ. | 8 9 10 11 | (NONE) |
| 7 8 | 312.577.7000 phenkelmann@fitcheven.com For the Samsung Electronics Parties: DRINKER BIDDLE & REATH LLP BY: NICK COLIC, ESQ. 1500 K Street, N.W. | 8 9 10 11 12 | (NONE) |
| 7 8 9 | 312.577.7000 phenkelmann@fitcheven.com For the Samsung Electronics Parties: DRINKER BIDDLE & REATH LLP BY: NICK COLIC, ESQ. 1500 K Street, N.W. Washington, DC 20005 | 8 9 10 11 12 13 | (NONE) |
| 7 8 9 | 312.577.7000 phenkelmann@fitcheven.com For the Samsung Electronics Parties: DRINKER BIDDLE & REATH LLP BY: NICK COLIC, ESQ. 1500 K Street, N.W. Washington, DC 20005 202.230.5115 | 8 9 10 11 12 | (NONE) |
| 7 8 9 10 | 312.577.7000 phenkelmann@fitcheven.com For the Samsung Electronics Parties: DRINKER BIDDLE & REATH LLP BY: NICK COLIC, ESQ. 1500 K Street, N.W. Washington, DC 20005 202.230.5115 nick.colic@dbr.com | 8 9 10 11 12 13 | (NONE) |
| 7 8 9 10 11 | 312.577.7000 phenkelmann@fitcheven.com For the Samsung Electronics Parties: DRINKER BIDDLE & REATH LLP BY: NICK COLIC, ESQ. 1500 K Street, N.W. Washington, DC 20005 202.230.5115 | 8 9 10 11 12 13 14 15 | (NONE) |
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| 7 8 9 10 11 12 13 14 | 312.577.7000 phenkelmann@fitcheven.com For the Samsung Electronics Parties: DRINKER BIDDLE & REATH LLP BY: NICK COLIC, ESQ. 1500 K Street, N.W. Washington, DC 20005 202.230.5115 nick.colic@dbr.com | 8 9 10 11 12 13 14 15 16 17 | (NONE) |
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2 (Pages 2 to 5)



| | Page 6 | | Page 8 |
|--|---|--|---|
| 1 | LOS ANGELES, CALIFORNIA | 1 | MR. QUIST: Briefly, the '449 is marked |
| 2 | AUGUST 24, 2017 | 2 | as Exhibit 1. |
| 3 | * * * | 3 | And is there not a stamp on that one? |
| 4 | | 4 | MR. HENKELMANN: Oh, is that I'm |
| 5 | | 5 | sorry. |
| 6 | KEVIN ALMEROTH, | 6 | Could you mark this as Exhibit 2, |
| 7 | called as a witness, having been | 7 | please. |
| 8 | sworn, was examined and testified | 8 | MR. QUIST: So for the record the |
| 9 | as follows: | 9 | Declaration of Kevin Almeroth in Support of Petition |
| 10 | | 10 | For Inter Partes Review of U.S. Patent |
| 11 | EXAMINATION | 11 | Number 6,895,449 is marked as Exhibit 1. |
| 12 | BY MR. HENKELMANN: | 12 | And the Declaration of Kevin Almeroth in |
| 13 | Q. Good morning, Dr. Almeroth. | 13 | Support of Petitioner For Inter Partes Review of |
| 14 | A. Good morning. | 14 | U.S. Patent number 6,895,449. |
| 15 | Q. Thanks for coming in today. | 15 | MR. MILLER: 399. |
| 16 | Just initially, have you been deposed | 16 | MR. QUIST: Sorry. |
| 17 | before? | 17 | the '399 Patent is marked as |
| 18 | A. I have. | 18 | Exhibit number 2. |
| 19 | Q. Okay. So you know the ground rules | 19 | (Whereupon the document referred |
| 20 | generally in a deposition. You're required to | 20 | to was marked Almeroth Exhibit 2 |
| 21 | answer my questions. If you don't understand, | 21 | by the Certified Shorthand |
| 22 | please let me know. I'll try to rephrase the | 22 | Reporter and is attached hereto.) |
| 23 | question. | 23 | THE REPORTER: Here you go. |
| 24 | We're talking about two of your | 24 | THE WITNESS: Thank you. |
| 25 | declarations in two separate IPR matters. | 25 | /// |
| | | | |
| | | | |
| | Page 7 | | Page 9 |
| 1 | Page 7 You gave a declaration in the | 1 | Page 9 BY MR. HENKELMANN: |
| 1 2 | | 1 2 | |
| | You gave a declaration in the | | BY MR. HENKELMANN: |
| 2 | You gave a declaration in the IPR2017-00713 and IPR2017-00714. The first one has | 2 | BY MR. HENKELMANN: Q. We'll do our best to keep these |
| 2 | You gave a declaration in the IPR2017-00713 and IPR2017-00714. The first one has to do with U.S. Patent number 6,895,449, that's the 713 matter, and the 714 IPR has to do with U.S. Patent 6,470,399. | 2 3 | BY MR. HENKELMANN: Q. We'll do our best to keep these straight. |
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| 2 3 4 5 | You gave a declaration in the IPR2017-00713 and IPR2017-00714. The first one has to do with U.S. Patent number 6,895,449, that's the 713 matter, and the 714 IPR has to do with U.S. Patent 6,470,399. | 2 3 4 5 | BY MR. HENKELMANN: Q. We'll do our best to keep these straight. MR. HENKELMANN: Let's mark a few more exhibits in case we need them. |
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3 (Pages 6 to 9)



| | Page 10 | | Page 12 |
|--|---|--|--|
| 1 | you're going to be marking for now? | 1 | THE WITNESS: I don't recall exactly |
| 2 | MR. HENKELMANN: For now. | 2 | when it was. It would have been sometime before the |
| 3 | MR. QUIST: And again as to Exhibits 3 | 3 | declaration was filed, but I don't recall how how |
| 4 | through 5 do you represent those are true and | 4 | much before that. |
| 5 | accurate copies of the '499 Patent, the '399 Patent | 5 | BY MR. HENKELMANN: |
| 6 | and the '081 Patent respectively? | 6 | Q. How long did you have to prepare your |
| 7 | MR. HENKELMANN: To the best of my | 7 | declarations in both of these matters? |
| 8 | knowledge. | 8 | MR. QUIST: Objection. Form. |
| 9 | BY MR. HENKELMANN: | 9 | THE WITNESS: I don't recall. |
| 10 | Q. Mr. Almeroth, do you could you take a | 10 | BY MR. HENKELMANN: |
| 11 | look at the two declarations and see if you | 11 | Q. Do you recall how long it took you to |
| 12 | recognize those as the declarations you gave in the | 12 | prepare your declaration in the '449 matter? |
| 13 | respective matters? | 13 | A. No. |
| 14 | A. They appear to be. | 14 | Q. Do you recall how long it took you to |
| 15 | Q. Okay. Dr. Almeroth, how long did you | 15 | prepare your declaration for the '399 matter? |
| 16 | prepare for this deposition? | 16 | A. No. |
| 17 | A. I would say maybe between 10 to | 17 | Q. So, you signed these both of these |
| 18 | 15 hours. | 18 | declarations on January 17th of 2017; is that |
| 19 | Q. Okay. And did you prepare with anyone? | 19 | correct? |
| 20 | A. I did. | 20 | A. Yes. |
| 21 | Q. Who did you prepare with? | 21 | Q. So you don't recall when you were |
| 22 | A. With counsel. | 22 | retained prior to that date in either of these? |
| 23 | Q. The counsel in this room? | 23 | A. I don't. I don't recall how much |
| 24 | A. Yes. | 24 | MR. QUIST: Objection. Form. |
| 25 | Q. Anyone else? | 25 | THE WITNESS: Sorry. I don't recall how |
| | Page 11 | | Page 13 |
| | | | 1490 13 |
| 1 | | 1 | _ |
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| | A. No.Q. Who is paying you for your testimony? | | much before this date I was retained specifically to |
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4 (Pages 10 to 13)

| | Page 14 | | Page 16 |
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| 1 | declaration yourself? | 1 | MR. QUIST: Yeah. I think that that, |
| 2 | MR. QUIST: Objection. Privilege. | 2 | too, is protected under the work product privilege |
| 3 | Again, the expert is instructed we're | 3 | afforded my Rule 26, certainly as to, you know, post |
| 4 | going to instruct the expert not to answer to the | 4 | amendments to Rule 26 and 2010. |
| 5 | extent that it is directed toward attorney | 5 | MR. HENKELMANN: Okay. So are you |
| 6 | communications with the expert. | 6 | instructing him not to answer any further questions |
| 7 | THE WITNESS: I don't believe so. I | 7 | on this? |
| 8 | mean generally just looking at it, there's citations | 8 | MR. QUIST: I'm instructing him not to |
| 9 | from materials. Obviously I didn't write the | 9 | answer to the extent this to the extent any of |
| 10 | underlying material. So in some instances I would | 10 | his responses are related to attorney communications |
| 11 | have cut and pasted material. | 11 | with the expert or communications concerning any |
| 12 | And again, it represents the opinions | 12 | drafts of the declaration or expert report in either |
| 13 | that I had developed when I signed my name to it. | 13 | of these matters. |
| 14 | BY MR. HENKELMANN: | 14 | If you want to ask him yes or no |
| 15 | Q. Did you write the first draft of this | 15 | questions as to what he recalls as to what he |
| 16 | declaration? | 16 | what he wrote or you want to ask him questions about |
| 17 | MR. QUIST: Objection. Privilege. Same | 17 | his compensation in the matter, those are certainly |
| 18 | instruction. | 18 | allowed. But beyond that, I'm instructing him not |
| 19 | THE WITNESS: I don't recall | 19 | to answer. |
| 20 | specifically. But it's my practice to write the | 20 | MR. HENKELMANN: Okay. I'm I'm |
| 21 | first draft of my reports or declarations. | 21 | trying to steer clear of finding out any |
| 22 | BY MR. HENKELMANN: | 22 | communications between counsel and the witness. |
| 23 | Q. So you don't recall whether you wrote | 23 | MR. QUIST: Okay. |
| 24 | the first draft of this declaration in the '449 | 24 | MR. HENKELMANN: Also, I believe |
| 25 | matter? | 25 | objections should be limited to short, you know, |
| | | | |
| | | | |
| | Page 15 | | Page 17 |
| - | Page 15 | | Page 17 |
| 1 | MR. QUIST: Objection. Form. | 1 | one-sentence objections under the rules here in |
| 2 | MR. QUIST: Objection. Form. Objection. Privilege. Same instruction as to | 2 | one-sentence objections under the rules here in IPR's. |
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| 2 3 4 | MR. QUIST: Objection. Form. Objection. Privilege. Same instruction as to privilege. THE WITNESS: It's the same answer. I | 2 3 4 | one-sentence objections under the rules here in IPR's. MR. QUIST: Understood. And that's that whole length of conversation is not meant to be |
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